REMARKS

The preliminary amendment is submitted for the purpose of clarification of some claims and for further distinguishing the present invention from the prior art and for cancelling claims previously allowed in the original patent application (Serial number 10/040,891, filed January 2, 2002).

The preliminary amendment includes further development of changes presented in the REQUEST FOR RECONSIDERATION AND AMENDMENT AFTER FINAL REJECTION filed on October 20, 2003 but not entered. The preliminary amendment introduces a "predetermined parameter" and a "predetermined range" in the main independent claims 1 and 29 and adds new six claims 56 through 62. These new changes and additions distance even further the present patent application from the prior art quoted by the Examiner in the Office action mailed on 9/5/2003.

The applicants would like to stress again their disagreement with the latest Examiner's statement of "obviousness", presented in the Office communication mailed on November 13, 2003 in response to said REQUEST FOR RECONSIDERATION AND AMENDMENT AFTER FINAL REJECTION filed on October 20, 2003, which cannot be justified without hindsight and based on other previously presented considerations in said request. Moreover, new changes in the independent claims 1 and 29 makes the change in the spreading factor not directly correlated with the power but with a predetermined parameter, which is, for example, can be a signal-to-interference ratio (see new claims 58-62). In that regard even if the uplink power is increased (or decreased), it does not necessarily mean that the spreading factor should be decreased (or increased), because: a) there is a range for a predetermined parameter such that not every fluctuation in the uplink power should cause the adjustment in the spreading factor,

but said adjustment in the spreading factor will only take place when the predetermined parameter is out of the predetermined range and not when the uplink power is increased (or decreased); b) even if the predetermined range is equal to zero (a low value equals to a high value), it does not necessarily means that increasing (or decreasing) the uplink power is compensated by decreasing (or increasing) the spreading factor, because the determining factor for changing the spreading factor (up or down or not changing it at all) is the fluctuations in the predetermined parameter, such as signal-to-interference ratio, so even if e.g., the uplink power is increased but the signal-to-interference ratio is decreased it can still require an increase in the spreading factor. These situations are not covered at all by the prior art references quoted by the Examiner, which makes independent claims 1 and 29 even more non-obvious and not anticipated by the prior art.

The title of the invention is modified to reflect the above considerations.

Consideration and allowance are respectively requested.

Respectfully submitted,

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